

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: <i>Bennett</i>) Art Unit: 2626
)
Serial No.: 10/653,039) Examiner: <i>Martin Lerner</i>
)
Filed: August 29, 2003)
)
For: <i>Query engine for processing voice based</i>)
<i>queries including semantic decoding</i>)
)
)

CITATION OF PRIOR ART PURSUANT TO 37 CFR 1.97, MPEP 2001.06
AND 37 C.F.R. 1.56

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 CFR 1.97 and in compliance with 37 C.F.R. 1.56, the Patent Owner hereby submits the present citation of prior art. These materials include documents disclosed by Defendants in the ongoing litigation captioned as *Phoenix Solutions, Inc. v. Wells Fargo Bank, N.A.*, No. CV-08-0863 pending in the Northern District of California as identified in the Notice of Concurrent Proceedings previously submitted.

A copy of each reference has been provided pursuant to 37 C.F.R. 1.98(a)(2) and tagged with a citation number that correlates with the enclosed 1449 form. Due to the volume of materials they are being shipped in two (2) separate boxes. Physical copies of the references are only being provided in the pending 10/864,357 case due to the volume of the materials and because it is a parent to several other applications pending to Applicant. As noted below, Applicant is submitting a petition to waive the physical copy requirement of 37 C.F.R. 1.98(a)(2) to avoid costly and wasteful duplication of paper.

The above references are submitted pursuant to 37 C.F.R. 1.97(c). Per the requirements of 1.97(e) Applicant states that they were not known more than three

months ago since they were recently provided by representatives of the Defendants pursuant to their disclosure obligations under applicable Local Rules. The Applicant has not made an exhaustive review of the references. They appear to the undersigned, however, to be mostly cumulative and redundant of other references already considered. Hence they are not believed to be material to the claims of the present application. Applicant can offer further insights to the PTO on a case by case basis in an interview should the Examiner decide it is necessary.

No representation or admission is made by Applicant that the attached materials indeed constitute prior art, and/or that they are material in any way to the present claims. They are being disclosed and provided solely to err on the side of caution in complying with the duty of disclosure, and to ensure that the record includes all potentially relevant prior art which was brought to the Applicant's attention during pendency of the present application.

The Examiner is requested to consider the references and initial each entry on the enclosed 1449 form. As an FYI the same IDS is being presented in at least 20 other cases pending before the instant Examiner. As noted earlier, to save paper, space, cost and other undue burden, physical copies are only being provided for now in the earlier 10/864,357 application. Applicant is also petitioning herewith to submit only electronic versions of the references in the present application.

No fees are believed to be due; if the Office determines that the present submission does require some kind of payment, then please charge any petition fees to deposit account no. 501- 244.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "J. Nicholas Gross". The signature is fluid and cursive, with the first name "J." and last name "Gross" clearly distinguishable.

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October 21, 2008
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